

1 Ramon Rossi Lopez - rlopez@lopezmchugh.com
(California Bar Number 86361; admitted *pro hac vice*)
2 Lopez McHugh LLP
100 Bayview Circle, Suite 5600
3 Newport Beach, California 92660
949-812-5771

4 Mark S. O'Connor (011029) – mark.oconnor@gknet.com
5 Gallagher & Kennedy, P.A.
2575 East Camelback Road
6 Phoenix, Arizona 85016-9225
602-530-8000

7 *Co-Lead/Liaison Counsel for Plaintiffs*

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF ARIZONA

10
11 In Re Bard IVC Filters Products
Liability Litigation

No. MD-15-02641-PHX-DGC

12 **MOTION TO SEAL**
13 **and**
14 **NOTICE OF LODGING**
15 **PLAINTIFFS' DOCUMENTS IN**
16 **RESPONSE TO DEFENDANTS'**
MOTION FOR SUMMARY
JUDGMENT AS TO LISA AND MARK
HYDE'S CLAIMS

17 **Motion to Seal**

18 In accordance with Section 25 of the Stipulated Protective Order [Doc. 269],
19 Federal Rule of Civil Procedure 26(c)(1)(G), and Local Civil Rule 5.6, Plaintiffs move
20 this Court for an Order sealing Plaintiffs' Response to Defendants' Motion for Summary
21 Judgment as to Plaintiffs Lisa and Mark Hyde's Claims ("Response") and their
22 corresponding Controverting Statement of Facts ("CSOF"). Plaintiffs' Response and
23 CSOF contain personal healthcare information regarding Plaintiff Lisa Hyde that is
24 protected under HIPAA and confidential under the Stipulated Protective Order,
25 warranting protection from public disclosure.

26 Plaintiff's personal healthcare information is protected under the Privacy Rule of
27 the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 45 C.F.R. §
28 160, 164(A) & (E), as well as several state-law privileges. The knowing disclosure of

1 such information is prohibited by 42 U.S.C. § 1320d-6. This Court has already granted
 2 the filing under seal of the same (or similar) information when the parties submitted their
 3 respective bellwether submissions. [See Doc. 4366.]

4 Plaintiffs intend to meet and confer with Defendants to resolve confidentiality
 5 disputes.

6 Accordingly, Plaintiff requests that the Court order the information and documents
 7 lodged with Plaintiffs' Response and CSOFs be sealed pending final determination of
 8 confidentiality.

9 **Notice of Lodging**

10 Pursuant to LRCiv 5.6(d), Plaintiffs submit this Notice of Lodging Certain
 11 Documents under Seal Their Response and CSOF.

12 Plaintiffs provide notice that, pursuant to LRCiv 5.6(d), they have lodged with the
 13 Court the Response and CSOF, which contain factual statements based on the contents of
 14 documents that Defendants have claimed to be confidential. Resolution of those
 15 confidentiality issues will determine which parts of the Response are appropriate for
 16 sealing and which statements may be filed without redaction.

17 Defendants contend that information confidential and should be filed under seal.
 18 Plaintiffs do not believe that the disputed documents warrant continued confidential
 19 treatment as proprietary or sensitive trade secret information.

20 RESPECTFULLY SUBMITTED this 2nd day of October 2017.

21
 22 GALLAGHER & KENNEDY, P.A.

23 By: /s/ Mark S. O'Connor

24 Mark S. O'Connor
 25 Paul L. Stoller
 26 2575 East Camelback Road
 27 Phoenix, Arizona 85016-9225

28 LOPEZ McHUGH LLP

Ramon Rossi Lopez (CA Bar No. 86361)
 (admitted *pro hac vice*)
 100 Bayview Circle, Suite 5600
 Newport Beach, California 92660
Co-Lead/Liaison Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of October, 2017, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ Deborah Yanazzo